

CALIFORNIA STATE PERSONNEL BOARD MEETING*
801 Capitol Mall
Sacramento, California

Public Session Location - Room 150

Closed Session Location - Room 141

MID-MONTH MEETING MINUTES**

APRIL 20, 2004

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

Members Present:

William Elkins, President
Ron Alvarado, Vice President
Anne Sheehan, Member
Maeley Tom, Member

2. REPORT OF THE EXECUTIVE OFFICER - Laura Aguilera, Interim
Executive Officer, State Personnel Board

A. Governor Arnold Schwarzenegger has signed Executive Order S-6-04 expressing his strong commitment to ensuring equality of employment opportunity in California State Government. A link to the Executive Order will be placed on the State Personnel Board (SPB) website and a memo issued to state Department Directors calling their attention to the provisions of the Governor's Executive Order.

B. The Senate Rules Committee has scheduled

** The State Personnel Summary Minutes can be obtained at the following Internet address: <http://www.spb.ca.gov/calendar.htm>

Board member Anne Sheehan's confirmation hearing for May 5, 2004 at 1:30 P.M.

- C. The Senate Budget Sub-Committee #4 has scheduled the SPB budget hearing for May 5 at 1:30 pm.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

- A. Department of Corrections (CDC) v. State Personnel Board (SPB)/Thalavaipalayam Soundarajan: Appellant was dismissed from the position of Physician and Surgeon at Richard J. Donovan Correctional Facility based upon allegations that he made false statements on his employment application and in hiring interviews by failing to disclose that he had been terminated from CDC by automatic resignation for having been absent without leave for 5 consecutive days and that he had been reprimanded and then discharged from the U.S. Department of Veterans Affairs. The Board found that appellant was not dishonest and revoked the action.

The San Diego Superior Court upheld SPB's decision that appellant was not dishonest when he failed to disclose that he had previously been terminated from CDC by automatic resignation and SPB's determination that appellant did not fraudulently omit the facts of his prior employment with the federal Department of Veterans Affairs. The court found, however, that appellant's statement in his hiring interview that he had not been subject to adverse action, could be construed as false or misleading, and ordered the case remanded back to SPB for further findings on this issue, including the taking of additional evidence if needed.

- B. Department of Corrections v. State Personnel Board/Robert White
Appellant, a correctional officer, filed an appeal from constructive termination alleging that CDC refused to return him to work after he obtained a medical release to return to work after recovering from injuries sustained during an assault by an inmate. The Board granted appellant's appeal and ordered him returned to work. The Department appealed to the superior court. The superior court rejected the Department's arguments that the Board lacked jurisdiction to adjudicate the appeal

while appellant's workers compensation case was pending, and that the appeal was not timely. The court held, however, that one of the Board's findings, that appellant was capable of performing the duties of a correctional officer was supported only by hearsay evidence and granted the petition for writ of mandate on that ground.

C. Oliver Albert v. State Personnel Board/Department of Corrections

Appellant, a correctional officer, was dismissed for smoking marijuana at a Raiders football game and for failing to report an arrest for spousal abuse. The Board sustained the dismissal and appellant filed a writ. The superior court upheld the Board's decision on all grounds, including the claim that the department failed to take adverse action within the 1-year statute of limitations set forth in Public Safety Officers Procedural Bill of Rights (POBOR). The court agreed with the Board's conclusion that the statute of limitations was tolled by the related criminal proceedings and appellant's one-month leave of absence, and that it did not begin to run as to the spousal abuse incident until the department discovered the incident.

4. REPORT ON LEGISLATION - Sherry Hicks

The Board voted to approve the following Legislative bills:

A. AB 2900 (Laird) - SUPPORT

This bill would amend various provisions of existing laws that prohibit discrimination in employment on different bases, including race, color sex, religion, or marital status, to instead prohibit discrimination in employment on the same bases set forth in the Fair Employment and Housing Act (i.e., race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation). This bill would also make technical, non-substantive changes to those existing provisions.

B. AB 2408 (YEE) - SUPPORT IF AMENDED

This bill would require the survey and report to include additional information, and, if deficiencies in bilingual staffing are identified, would require state agencies to fill public contact jobs with qualified bilingual staff, unless exempted by the board, as specified.

VOTE: Elkins, Alvarado, Sheehan, Tom - Aye

BOARD ACTIONS

5. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF APRIL 6, 2004

ACTION: Adopted on April 20, 2004

VOTE: Elkins, Alvarado, Sheehan, Tom - Aye

6. ACTION ON SUBMITTED ITEMS

(See Minutes Page 21)

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those cases are listed separately by category on this agenda under Evidentiary Cases.

7. EVIDENTIARY CASES

On April 20, 2004, the Board adopted by vote as indicated below, the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

Vote: Elkins, Alvarado, Sheehan, Tom - Aye

A. BOARD CASES SUBMITTED

These cases have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting.

DORYANNA ANDERSON-JOHNSON, CASE NO. 00-1687A
Appeal from denial of reasonable accommodation
Correctional Lieutenant
California Rehabilitation Center - Norco
Department of Corrections
NO ACTION

TIMOTHY BOBITT, CASE NO. 02-2856
Appeal from suspension
Senior Special Agent in Charge
Department of Justice at Sacramento
NO ACTION

RICHARD COELHO, CASE NO. 02-1796R
Appeal from constructive medical termination
Fish and Game Warden
Department of Fish and Game

RANDALL DODSON, Case No. 03-1587
Appeal from non-punitive termination
Caltrans Equipment Operator I
Department of Transportation
NO ACTION

FRANK GARCIA, CASE NO. 03-1906
Appeal from Dismissal
Caltrans Highway Maintenance
Worker
Department of Transportation
ACTION: The Board issued a non-
precedential decision revoking dismissal.

CYNTHIA GEORGE, CASE NO. 03-2494
Appeal from suspension
Administrative Law Judge I
Unemployment Insurance Appeals Board
NO ACTION

THEODORE HUGHING, CASE NO. 03-0354
Appeal from Medical Termination
Food Service Supervisor I
Department of Developmental Services
NO ACTION

MAMIE JONES, CASE NO. 02-4441
Appeal from ten-percent reduction
in salary for five months
Dispatcher Clerk with the
Department of Transportation
NO ACTION

NEIL MADDEN, CASE NO. 03-1682
Appeal from five percent reduction in salary
for three months
Correctional Officer
Centinela State Prison - Imperial
NO ACTION

ALICE VAN-THU, CASE NO. 03-1150A
Appeal from automatic resignation
Administrative Support Coordinator I
California State University - Monterey Bay
NO ACTION

BEVERLY WILSON, CASE NO. 03-1150A
Appeal from dismissal
Administrative Support Assistant II
California State University - Carson
NO ACTION

B. CASES PENDING

- Oral Arguments
These cases are on calendar to be argued
at this meeting or to be considered by
the Board in closed session based on
written arguments submitted by the
parties.

NONE

C. CHIEF COUNSEL RESOLUTIONS

CONNIE JOHNSON, CASE NO. 03-2620
Appeal from 30-calendar-days suspension
Employment Program Representative
Employment Development Department
ACTION: The Board adopted the Chief
Counsel's resolution continuing oral
argument scheduled for May 4, 2004, and
referring case to the Chief Administrative
Law Judge for assignment to a different
Administrative Law Judge.

- Court Remands

These cases have been remanded to the Board by the court for further Board action.

DANIEL PANCOAST, CASE NO. 01-4151

Rejection during probation

Correctional Officer

Department of Corrections (CDC)

CDC Training Center - Galt

The Board adopted the decision on Court Remand setting aside its decision and reinstating appellant's rejection during probation.

- Stipulations

These stipulations have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

NONE

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

- Proposed Decisions

These are ALJ proposed decisions submitted to the Board for the first time.

MAUREEN ALVAREZ, CASE NO. 02-3571

Appeal from dismissal

Drafting Services Aid

Department of Transportation

ACTION: Dismissal sustained.

ANDREA BLOUNT, CASE NO. 03-1980

Appeal from dismissal

Food Service Technician II

Department of Mental Health

ACTION: Dismissal sustained.

HARMEET BRAR, CASE NO. 02-3640

Appeal from dismissal

Senior Psychiatric Technician (Safety)
Department of Mental Health

ACTION: Dismissal sustained.

JOHN CARTIER, CASE NO. 03-1588

Appeal from dismissal

Correctional Officer

High Desert State Prison - Susanville

Department of Corrections

ACTION: Dismissal sustained.

RICHARD LEWIS COLLINS, CASE NO. 02-2306

Appeal from dismissal

Assistant Safety Engineer

Department of Industrial Relations

ACTION: Dismissal sustained.

JAIME CORVERA - SPB CASE NO. 03-2402

Appeal from Official Reprimand

Accounting Administrator II

California Men's Colony - San Luis Obispo

Department of Corrections

ACTION: Official reprimand sustained.

KENNETH CROWLEY, CASE NO. 01-1264

Appeal from dismissal

Correctional Officer

California State Prison - Solano

Department of Corrections

ACTION: Dismissal sustained.

KENNETH DRYSON, CASE NO. 04-0231

Appeal from formal reprimand

Correctional Counselor III

California Institution for Men - Chino

Department of Corrections

ACTION: Formal reprimand revoked.

MARCUS GLENN, CASE NO. 03-1180

Appeal from dismissal

Pharmacy Technician

Department of Veterans Affairs

ACTION: Dismissal modified to 30-calendar
days suspension.

NATHAN GOSSETT, CASE NO. 03-1863

Appeal from demotion

Correctional Sergeant

Deuel Vocational Institution - Tracy

Department of Corrections

ACTION: Demotion sustained.

DARLENE HARRIS, CASE NO. 02-3763E
Appeal from discrimination/denial of
reasonable accommodation
Senior Laboratory Assistant
Department of Health Services
ACTION: Appeal from discrimination and
denial of reasonable accommodation denied.

JON HENDERSON, CASE NO. 03-2298
Appeal from dismissal
Psychiatric Technician
Department of Developmental Services
ACTION: Dismissal modified to six-months
suspension.

ROCHELLE JOHNSON, CASE NO. 03-3211
Appeal from rejection during probation
Disability Evaluation Analyst
Department of Social Services at Oakland
ACTION: Rejection during probation
sustained.

CHRISTOPHER MAYFIELD, CASE NO. 03-2463E
Appeal from discrimination
Caltrans Equipment Operator II
Department of Transportation
ACTION: Discrimination Appeal denied.

MAI NGUYEN (aka MY WINN), CASE NO. 03-1360
Appeal from rejection during probation
Disability Insurance Program Representative
Employment Development Department
ACTION: Rejection during probation
sustained.

TIMOTHY REMALEY, CASE NO. 03-1492
Appeal from dismissal
Correctional Officer,
California State Prison - Ione
Department of Corrections
ACTION: Dismissal sustained.

MICHAEL LYMAN, CASE NO. 03-0559
Appeal from rejection during probation
Fish and Game Warden
Department of Fish and Game
ACTION: Rejection during probation
sustained.

DAVID YORKOWITZ, SPB CASE NO. 03-1965E
Appeal from discrimination
Controller
State Compensation Insurance Fund
ACTION: Discrimination complaint dismissed.

- Proposed Decisions Taken Under Submission
At Prior Meeting

These are ALJ proposed decisions taken
under submission at a prior Board
meeting, for lack of majority vote or
other reason.

NONE

- Proposed Decisions After Board Remand

NONE

- Proposed Decisions After SPB Arbitration

LANA G. ANDREWS, CASE NO. 04-0316
Appeal from suspension
Officer
California Highway Patrol
ACTION: The Board took this matter under
submission until the next board meeting.

E. PETITIONS FOR REHEARING

- ALJ Proposed Decisions Adopted By The
Board
The Board will vote to grant or deny a
petition for rehearing filed by one or

both parties, regarding a case already decided by the Board.

DONALD ATKINS, CASE NO. 03-1448P
Appeal from five-percent reduction
in salary for six months
Correctional Officer
California State Prison - San Quentin
Department of Corrections
ACTION: Petition for rehearing filed by
respondent granted.

WAYNE McKAY, CASE NO. 03-1496P
Appeal from whistleblower retaliation
Associate Programmer Analyst (Specialist)
State Water Resources Control Board
ACTION: Petition for rehearing filed by
appellant denied.

MICHAEL K. MOSELEY, M.D., CASE NO. 03-2996P
Appeal for whistleblower retaliation by
the Health and Human Services Agency, the
Department of Social Services, and
Robert Schoenfelder, Director of the
Department of Social Services
ACTION: Petition for rehearing filed by
appellant denied.

- Whistleblower Notice of Findings
The Board will vote to grant or deny a
petition for rehearing filed by one or
both parties, regarding a Notice of
Findings issued by the Executive
Officer under Government Code, section
19682 et seq. and Title 2, California
Code of Regulations, section 56 et seq.

NONE

F. PENDING BOARD REVIEW
These cases are pending preparation of
transcripts, briefs, or the setting of
oral argument before the Board.

ANDREW CIRNER, CASE NO. 03-2241E

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Appeal from denial of request for
reasonable accommodation
Senior Psychiatric Technician
Department of Mental Health

NO ACTION

NICHOLAS COMAITES, CASE NO. 03-0062

Appeal from official reprimand
Correctional Counselor II
Department of Corrections

AND

PAUL WARD, CASE NO. 03-0332

Appeal from official reprimand
Correctional Administrator
Department of Corrections

NO ACTION

ROSIE L. DASHIELL, CASE NO. 03-2279

Appeal from dismissal
Public Safety Dispatcher I
California Highway Patrol

NO ACTION

KEVIN FRAZIER, CASE NO. 03-0736

Appeal from a one-step reduction in
salary for six months
Correctional Officer
California State Prison, San Quentin
Department of Corrections

NO ACTION

SHANNON FROEMING, CASE NO. 03-2871E

Appeal from denial of request
for reasonable accommodation
Employment Program Representative
Employment Development Department

NO ACTION

RONALD GALI, CASE NO. 03-0462

Appeal from dismissal
Native American Spiritual Leader
Folsom State Prison - Represa
Department of Corrections

NO ACTION

ELIZABETH HERRERA, CASE NO. 03-2220

Appeal from constructive medical
termination
Administrative Support Coordinator I
San José State University at San José

NO ACTION

MARY HUTTNER, CASE NO. 02-1690
Appeal from demotion Staff Services
Manager I to the position of Associate
Health Program
Advisor (top step)
Department of Health Services
NO ACTION

CONNIE JAMES, CASE NO. 03-3136
Appeal from 15-working days'
suspension
Accounting Technician
Employment Development Department
NO ACTION

CONNIE JOHNSON, CASE NO. 03-2620
Appeal from 30 calendar days suspension
Employment Program Representative
Employment Development Department
NO ACTION

PAUL H. KEMP, Case No. 01-2841
Appeal from dismissal
Teacher Assistant - Youth Correctional
Reception Center and Clinic - Sacramento
Department of the Youth Authority
NO ACTION

JENNIFER KILL, CASE NO. 02-2164B
Appeal for determination of back salary,
benefits and interest
Supervising Cook
California Correctional Institution -
Tehachapi
Department of Corrections
NO ACTION

NEIL MADDEN, CASE NO. 03- 1682
Appeal from five-percent-reduction
in salary for three months
Correctional Officer
Centinela State Prison - Imperial
Department of Corrections at Imperial
NO ACTION

DONNA MARTINEZ, CASE NO. 03-2232
Appeal from dismissal
Material & Stores Supervisor I
Central California Women's Facility,
Department of Corrections
NO ACTION

RAY MARTINEZ, CASE NO. 03-3344
Appeal from dismissal
Correctional Officer
Substance Abuse Treatment Facility -
Corcoran
Department of Corrections
NO ACTION

MARGARET A. MEJIA, CASE NO. 03-1848
Appeal from dismissal
Psychiatric Technician (Safety)
Department of Mental Health
NO ACTION

CHRISTOPHER MIRAMONTES, CASE NO. 03-2299
Appeal from five-percent reduction in
salary for six months
Special Agent
Department of Corrections
NO ACTION

MARYLAND PAGE, CASE NO. 03-3703
Appeal from five-percent reduction in
salary for twelve-months
Correctional Officer
Ironwood State Prison - Blythe
Department of Corrections
NO ACTION

VIRGINIA PARKER, CASE NO. 03-0325
Appeal from demotion
Correctional Lieutenant
Ironwood State Prison - Blythe
Department of Corrections
NO ACTION

NANCY SEARS, CASE NO. 02-2444
Appeal from two-step reduction in
salary for 12 months and transfer/
reassignment
Parole Agent I (Adult Parole)
Department of Corrections - Sacramento
NO ACTION

NANCY VALENTINO, Case No. 03-0699
Appeal from dismissal
Psychiatric Technician
Department of Developmental Services
NO ACTION

ALICE VAN-THU, CASE NO. 03-0413
Appeal from automatic resignation
Administrative Support Coordinator I
California State University
NO ACTION

PHUONG VU, CASE NO. 03-1145
Appeal from dismissal
Transportation Engineer (Civil)
Department of Transportation
NO ACTION

BEVERLY WILSON, CASE NO. 03-1150A
Appeal from dismissal
Administrative Support Assistant II
California State University
NO ACTION

8. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE
SECTION 18671.1 EXTENSION
(See Minutes Pages 24-25)
9. NON-EVIDENTIARY CASES
On April 20, 2004, the Board adopted the following
decisions presented by Laura Aguilera, Interim
Executive Officer, California State Personnel
Board.
VOTE: Elkins, Alvarado, Sheehan, Tom - Aye

A. WITHHOLD APPEALS

EUSEBIO ARBALLO, CASE NO. 03-1043
Correctional Officer
Department of Corrections
ACTION: DENIED

LUIS ARBALLO, CASE NO. 03-1237
Correctional Officer
Department of Corrections
ACTION: DENIED

DRUSILLA LANG, CASE NO. 03-1563
Correctional Officer
Department of Corrections
ACTION: DENIED

RUDY LOPEZ, CASE NO. 03-1560
Correctional Officer
Department of Corrections
ACTION: DENIED

ERIC NELSON, CASE NO. 03-2033
Youth Correctional Officer
California Department of Youth Authority
ACTION: DENIED

JON NUSZKIEWICZ, CASE NO. 03-2147
Correctional Officer
Department of Corrections
ACTION: DENIED

JOE RAY PASILLAS, CASE NO. 03-1720
Correctional Officer
Department of Corrections
ACTION: DENIED

NICOLE ROBINSON, CASE NO. 03-1209
Correctional Officer
Department of Corrections
ACTION: DENIED

CYNTHIA STINSON, CASE NO. 03-1403
Correctional Officer
Department of Corrections
ACTION: GRANTED

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS
NONE

C. EXAMINATION APPEALS
MINIMUM QUALIFICATIONS
MERIT ISSUE COMPLAINTS - NONE

(Exam Case)

JOHN WONG, CASE NO. 02-4103

Staff Services Manager I

Department of Education

ACTION: Retracted from agenda by State
Personnel Board staff, not for Board
consideration.

(Minimum Qualifications Case)

AMY HINCHEE, CASE NO. 02-1538

Staff Service Manager I

Department of Corrections

ACTION: DENIED

D. RULE 212 OUT-OF-CLASS APPEALS - NONE
VOIDED APPOINTMENT APPEALS - NONE
RULE 211 APPEALS - NONE

E. REQUEST TO FILE CHARGES CASES
PETITIONS FOR REHEARING CASES - NONE

(RTFCS CASES)

RAUL CARRILLO, CASE NO. 03-3145

Correctional Sergeant

Department of Corrections

ACTION: DENIED

MARY DURHAM, CASE NO. 03-0212

Staff Services Manager I

Office of Emergency Services

ACTION: DENIED

DOROTHY SAID, CASE NO. 02-3895

Office Technician (General)

Department of Health Services

ACTION: DENIED

F. PSYCHOLOGICAL SCREENING CASES - NONE

10. NON-HEARING CALENDAR

On April 20, 2004, the Board adopted item A and B. The items were presented by Laura Aguilera, Interim Executive Officer, California State Personnel Board.

VOTE: Elkins, Alvarado, Sheehan, Tom - Aye

A. INDUSTRIAL SUPERVISOR, PRISON INDUSTRIES SUPERINTENDENT I, AND PRISON INDUSTRIES SUPERINTENDENT II

The Prison Industry Authority proposes to establish the following three new parenthetical classes within the existing Industrial Supervisor, Prison Industries (Various Industries) Series, the Prison Industries Superintendent I (Various Industries) Series, and the Prison Industries Superintendent II (Various Industries) Series. The three new proposed parenthetical classes are the Industrial Supervisor, Prison Industries (Food Packaging), which will serve a six-month probationary period; Prison Industries Superintendent I (Food Packaging) and Prison Industries Superintendent II (Food Packaging), which will both serve 12-month probationary periods.

B. WORKERS' COMPENSATION JUDGE

The Department of Industrial Relations (DIR) is proposing to revise the Worker's Compensation Judge class specifications to amend the Minimum Qualifications section to require that applicants must have experience in workers' compensation law, in accordance to Assembly Bill (AB) 749.

11. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

NONE PRESENTED

12. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY
ACTIVITY

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS
CURRENTLY UNDER CONSIDERATION

(1) SENIOR ALTERNATIVE ENERGY ADVISOR
The Air Resources Board proposes to allocate the above position to the CEA category. The Senior Alternative Energy Advisor is responsible for the development of policies and strategies that will advance the use of hydrogen and renewable energy sources in California.

(2) ASSISTANT DIRECTOR, LEGISLATIVE AND
PUBLIC AFFAIRS
The Office of Statewide Health Planning & Development proposes to allocate the above position to the CEA category. The Assistant Director, Legislative and Public Affairs, devises policies and strategies to ensure that the legislative affairs and public affairs objectives of the Office of Statewide Health Planning & Development are met.

B. EXECUTIVE OFFICER DECISIONS REGARDING
REQUESTS TO ESTABLISH NEW CEA POSITIONS

(1) CHIEF, LEGISLATION, PUBLIC AFFAIRS
& COMMUNICATION
The Victim Compensation and Government Claims Board's request to establish the above position to the CEA category has been approved effective March 28, 2004.

- (2) DEPUTY EXECUTIVE OFFICER,
ADMINISTRATION
The Victim Compensation and
Government Claims Board's request
to establish the above position to
the CEA category has been approved
effective March 28, 2004.
- (3) CHIEF OF LEGISLATION
The Department of Community
Services and Development's request
to establish the above position to
the CEA category has been
disapproved effective March 28,
2004.

ACTION: Noted

A D J O U R N M E N T

SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC. Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002).

NO ACTION

2. VOCATIONAL INSTRUCTOR (SAFETY) (VARIOUS SPECIALTIES). Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002).

NO ACTION

3. TELEVISION SPECIALIST (SAFETY)
The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003).

NO ACTION

4. PSC NO'S 03-09 & 03-10
Appeal of the California Department of Insurance from the Executive Officer's August 15, 2003, disapproval of contracts with Strumwasser & Woocher and Bartko, Zankel, Tarrant & Miller, for legal services in response to the review request filed by California Attorneys, Administrative Law Judges and Hearing Officers (CASE). (Hearing held February 10, 2004).

NO ACTION

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

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I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on April 20, 2004.

VOTE: Elkins, Alvarado, Sheehan, Tom - Aye.

LAURA AGUILERA
Interim Executive Officer
California State Personnel Board